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10/824,291

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Jeffrey D. Muhs

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JEFFREY D. MUHS,
DENNIS D. EARL, DAVID L. BESHEARS,
LONNIE C. MAXEY, JOHN K. JORDAN,
and RANDALL F. LIND

Appeal 2009-010533
Application 10/824,291
Technology Center 1700

Before BRADLEY R. GARRIS, ADRIENE LEPIANE HANLON, and
MICHAEL P. COLAIANNI, *Administrative Patent Judges*.

COLAIANNI, *Administrative Patent Judge*.

DECISION ON APPEAL¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

Appellants appeal under 35 U.S.C. § 134 the final rejection of claims 1, 3 through 6, and 8 through 12. We have jurisdiction over the appeal pursuant to 35 U.S.C. § 6(b).

We REVERSE.

STATEMENT OF THE CASE

The subject matter on appeal is directed to, *inter alia*, a hybrid solar energy distribution system.

The Examiner maintains the following rejections:

- 1) Claims 1, 3, 5, 6, 9, and 11 under 35 U.S.C. § 103(a) over Muhs (“Design and Analysis of Hybrid Solar Lighting and Full-Spectrum Solar Energy Systems,” American Solar Energy Society’s SOLAR 2000 Conference, (Jul. 16-21, 2000)) and Levinson (US 5,271,079, Dec. 14, 1993);
- 2) Claims 4 and 8 under 35 U.S.C. § 103(a) over Muhs and Levinson, and further in view of Nagao (US 3,626,040, issued Dec. 7, 1971); and
- 3) Claims 10 and 12 under 35 U.S.C. § 103(a) over Muhs and Levinson, and further in view of Kessler (US 6,416,181 B1, issued Jul. 9, 2002).

REJECTION (1)

ISSUE

Did the Examiner err in determining that the combined teachings of Muhs and Levinson would have rendered obvious a hybrid solar energy distribution system or a hybrid collector having a fiber receiver and a light distribution system, which includes at least one fiber distribution panel, as

required by claims 1 and 5 within the meaning of § 103. We decide this issue in the affirmative.

PRINCIPLE OF LAW

"[T]he claims themselves provide substantial guidance as to the meaning of particular claim terms." *Phillips v. AWH Corp.*, 415 F.3d 1303, 1314 (Fed. Cir. 2005).

FACTUAL FINDINGS

1. Muhs teaches a hybrid lighting system having five major elements that include, *inter alia*, a sunlight collection and tracking system and a light distribution system. (Muhs, p. 3). Muhs' Figure 3 depicts that the sunlight collection and tracking system and light distribution system are discrete elements that are separate from each other. (Muhs, Figure 3).
2. Muhs teaches that its "preferred design for the hybrid solar collector," which is a component of its sunlight collection and tracking system, includes, *inter alia*, a concentric fiber mount assembly [Fig. 6a, item 3] and "approximately eight 18-mm large-core optical fibers." (Muhs, pp. 3 and 4 and Figure 6a). Muhs' Figure 6b, which is entitled "[c]lose-up view of large-core optical fiber ends," depicts, *inter alia*, a hybrid solar collector's concentric fiber mount assembly (Fig. 6a, item 3) and eight large-core optical fiber ends. (Muhs, p. 4 and Fig. 6b).

ANALYSIS AND CONCLUSION

We begin by noting that claims 1 and 5 individually recite a hybrid solar energy distribution system or a hybrid collector comprising “[a] fiber receiver . . . comprising . . . a receiver housing” and “a fiber at least partially disposed in said housing . . . said fiber further *transmitting* visible light to a light distribution system further comprising . . . at least one fiber distribution panel.” (Claims 1 and 5) (emphasis added).

Because the claims require that the fiber 43, which is at least partially disposed in the receiver housing 42 of the fiber receiver 32, “*transmit[s]* visible light to a light distribution system,” claims 1 and 5 based on their plain meaning require that the fiber receiver 32 be separate from the fiber light distribution system. This construction is reasonable because the light distribution system includes a fiber distribution panel 124 that permits visible light transmission via the fiber 43 from the fiber receiver 32 to the fiber light distribution system. *Phillips*, 415 F.3d at 1314.

Indeed, as correctly pointed out by Appellants, “the fiber distribution panel [which is part of the light distribution system] is not part of the fiber receiver . . . The fiber distribution panel is part of the light distribution system . . . which is remote from the fiber receiver.” (Reply Br. 4).

In light of this claim construction, we turn our attention to the Examiner’s rejection. The Examiner states that Muhs teaches “a receiver for receiving visible light (concentric fiber mount assembly[]) [Fig. 6a, item 3].” (Ans. 3). In addition, the Examiner states that “[i]t is evident from fig. 6b of Muhs that concentric fiber mount assembly [Fig. 6a, item 3] . . . functions as the fiber distribution panel as the optical fibers 4 are distributed from the fiber mount assembly [Fig. 6a, item 3].” (Ans. 9; *see* FF 1).

Thus, it appears that the Examiner's position is that Muhs' concentric fiber mount assembly (Fig. 6a, item 3) corresponds to both the fiber receiver feature and the fiber distribution panel feature required by claims 1 and 5.

Contrary to the Examiner's position, claims 1 and 5 plainly require that the fiber receiver 32 be separate from the fiber light distribution system, which includes a fiber distribution panel 124.

Therefore, we determine that the Examiner erred in determining that Muhs' concentric fiber mount assembly (Fig. 6a, item 3) corresponds to both the fiber receiver feature and the fiber distribution panel feature required by claims 1 and 5.

In this regard, the Examiner fails to direct us to any credible evidence or provide any persuasive explanation to show how Muhs' concentric fiber mount assembly (Fig. 6a, item 3) meets the requirement of claims 1 and 5 that the fiber receiver be *separate* from the fiber light distribution system, which includes a fiber distribution panel.

Moreover, with respect to the Examiner's statement that Muh's "concentric fiber mount assembly . . . [Fig. 6a, item 3] functions as the fiber distribution panel," in reference to our above discussion, claims 1 and 5 plainly require that the fiber distribution panel 124 be an element of the light distribution system.

Although Muhs teaches a concentric fiber mount assembly (Fig. 6a, item 3) and a light distribution system (Fig. 3), Muhs teaches that its concentric fiber mount assembly (Fig. 6a, item 3) is an element of its sunlight collection and tracking system (Fig. 3). (FF 1 and 2). Nowhere does Muhs teach that its concentric fiber mount assembly (Fig. 6a, item 3) is an element of its light distribution system (Fig. 3, element 3). *Id.*

The Examiner simply fails to direct us to any credible evidence or provide any persuasive explanation to show how Muhs' light distribution system (Fig. 3) further comprises a fiber distribution panel as required by claims 1 and 5.

Thus, it follows that the Examiner erred in determining that the combined teachings of Muhs and Levinson would have rendered obvious a hybrid solar energy distribution system or a hybrid collector having a fiber receiver and a light distribution system, which includes at least one fiber distribution panel, as required by claims 1 and 5 within the meaning of § 103.

Accordingly, for the reasons stated by Appellants in the Briefs and above, we reverse the Examiner's rejection (1).

REJECTIONS (2) and (3)

The Examiner relies on the same factual findings and determinations discussed above to meet the disputed claim features of independent claims 1 and 5 and does not provide any additional findings or determinations as to how Nagao or Kessler would have satisfied these disputed claim features. Therefore, for the reasons stated above, we reverse the Examiner's rejections (2) and (3).

DECISION

Accordingly, we reverse rejections (1) though (3).

Accordingly, the Examiner's decision is reversed.

REVERSED

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